IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

OP.No. 28883 of 2002(L)

PETITIONER:

M/S. SAVITHA BAR AND RESTAURANT,
IRINJALAKKUDA, A PARTNERSHIP FIRM, REPRESENTED
BY ITS MANAGING PARTNER, C.D.SANTHOSH

BY ADV. SRI.T.A.SHAJI
SRI.M.A.ASIF

RESPONDENTS:
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1. THE SALES TAX OFFICER,
IRINJALAKKUDA

2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR.

3. DEPUTY TAHSILDAR (R.R), IRINJALAKKUDA.

4. STATE OF KERALA, REPRESENTED BY THE
SECRETARYU TO THE GOVERNMENT, DEPARTMENT OF
COMMERCIAL TAXES, THIRUVANANTHAPURAM

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 14/11/2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 49123 OF 2002 IN OP 28883 OF 2002

DISMISSED

14.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PROCEEDINGS NO. 2516 2422/92-93 OF THE FIRST RESPONDENT DATED 7.9.2000

EXT.P2 TRUE COPY OF THE PROCEEDINGS NO. 2516 2422/93-94 OF THE FIRST RESPONDENT DATED 7.9.2000

EXT.P3 TRUE COPY OF THE ORDER DATED 31.10.2001 OF THE TRIBUNAL.

EXT.P4 TRUE COPY OF THE COMMUNICATION DATED 27.4.2002 ISSUED BY THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF THE REVISION PETITION IN RESPECT OF THE YEAR 1992-93

EXT.P5(a) TRUE COPY OF THE REVISION PETITION IN RESPECT OF THE YEAR 1993-94

EXT.P6 TRUE COPY OF THE JUDGMENTDATED 23.7.2002 IN OP 12190 OF 2002 OF THIS HON'BLE COURT.

EXT.P7 TRUE COPY OF THE ORDER NO. R1-377 & 377A/01 DATED 31.7.2002 OF THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 28883 OF 2002

Dated this the 14th day of November, 2007

JUDGMENT

Petitioner is challenging Exts. P1 and P2 revised orders of assessment for 1992-93 and 1993-94 demanding among other things interest on turnover tax. Government Pleader submitted that interest is demanded on account of non-payment of full turnover tax on turnover of IMFL. It is seen from the revised orders that the petitioner did not remit turnover tax on the turnover of IMFL. In any case petitioner has filed belated revision petitions with delay condonation petitions. The ground raised for condonation of delay is that petitioner has filed appeal against assessments before the Tribunal. However, the proof of filing appeal before the Tribunal was not produced before the Deputy commissioner and therefore he rejected the delay condonation petition and consequently the revision petitions. This order is under challenge in this proceeding. Petitioner has produced Ext.P3 order of the Tribunal which proves that assessments were subject matter of appeal before the Tribunal. Therefore the claim made by the petitioner in

support of delay condonation petition was actually correct. In the circumstances, I quash Ext.P7 order of the Deputy Commissioner and direct him to restore the revision petitions against the demand of interest for 1992-93 and 1993-94 on file, issued notice to the petitioner and dispose of the revision petitions on merits within one month from the date of receipt of a copy of this judgment. Petitioner will produce copy of this judgment before the Deputy Commissioner and appear on the date of posting given by him and argue the matter for the Deputy Commissioner to dispose of the revision petitions in time.

O.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge